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Montana Fish,  
Wildlife & Parks

# Montana Fish & Wildlife Commission

## MINUTES

### Montana Fish and Wildlife Commission Meeting

Haugo Center – 483 East Rosebud Street – Forsyth, MT

October 13, 2016

Commission Members Present: Dan Vermillion, Chairman, Richard Stuker Vice-Chairman, Gary Wolfe and Matt Tourtlotte

Fish, Wildlife & Parks Staff Present: M. Jeff Hagener, Director and FWP Staff.

Guests: October 13, 2016 - See Commission file folder for sign-in sheet.

#### Topics of Discussion:

1. Call to Order and Pledge of Allegiance
2. Approval of Minutes of the August 11 and 29, and September 1, 2016 Commission Meetings
3. Approval of Commission Expenses
4. Commission Reports
5. Director's Report
6. 2017 Commission Meeting Calendar - Informational
7. Avista Cooperative Management Area Biennial Rule (R1) – Proposed
8. Canyon Creek WMA Specimen Creek Donation (R3) – Final
9. Trumbull Creek Conservation Easement (R1) – Final
10. Swift Lazy Conservation Easement (R1) – Endorsement
11. Millage Conservation Easement (R3) – Endorsement
12. Coal Creek Conservation Easement (R7) – Endorsement
13. Grassland Conservation Leases – Endorsement
14. Brucellosis Proposed 2017 Annual Work Plan – Final
15. Yellowstone River Update – Informational
16. Round Up and Three Stall Fishing Access Site Lease Agreements (R2) – Final
17. Harrison Lake Fishing Access Site Property Donation (R3) – Final
18. Pine Grove Pond Land Donation (R1) – Endorsement
19. Renew Biennial Fishing Access Site Rule – Proposed
20. Renew Biennial Commercial Use Permit Fee Rule – Proposed
21. 2017 Fishing Regulations – Final
22. Public Comment – For Issues Not On This Agenda  
Montana Bowhunters Association Proposed Archery Technology Policy - Endorsement for Public Comment

#### 1. Call to Order - Pledge of Allegiance

Chairman Vermillion called the meeting to order at 8:41 a.m. and led the Pledge of Allegiance.

#### 2. Approval of Minutes of the August 11 and 29, and September 1, 2016 Commission Meetings

*Action: Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion to approve the minutes of the August 11 and 29, and September 1, 2016 Commission Meetings. Motion passed.*

#### 3. Approval of Commission Expenses

*Action: Commissioner Tourtlotte moved and Commissioner Wolfe seconded the motion to approve the August-September 2016 Commission expenses. Motion passed.*

#### 4. Commission Reports

Commissioner Wolfe reported he visited with Region 2 Supervisor, Randy Arnold and landowners who are participating in shoulder seasons; game damage hunts are going in Region 2. Had several conversations with a gentleman from Kalispell who is concerned with houseboats in Somers Bay on Flathead Lake; he will be contacting the Department/Commissioners; people will be commenting at the November Commission meeting. Received a call from a sportsman in Region 1 who would like the Commission to look at smaller lakes and make them no-wake zones. Received a number of comments on



I-177 from both sides of the discussion, asking the Commission to publicly take a side; spoke with the Departments legal division and the Commission cannot take a position on the initiative. Attended the Smith River Advisory Council meeting; good compliance with the new food storage regulations, no reported black bear conflicts and record number of applications this year.

Commissioner Tourlotte reported he received several calls on the Yellowstone River closure; huge issue; interested in what the economical impact will be and how it will be dealt with in the future. Received several calls on shoulder seasons; main issue was property owners who are charging a fee for access to hunt elk during shoulder season; 100% against this issue; the Department needs to look at ways to mitigate the problem; wants the Department to keep track of who is charging a fee and review at the end of the season and see what can be done for next year; shoulder seasons should not impinge on the established archery season. Recommends sportsmen/women research the political issues before the election. Spoke with a couple archery hunters who ran in a number of grizzly bears while out hunting.

Vice-Chairman Stuker reported shoulder seasons seem to be working; less damage hunts this year; there are areas where limited public lands were included in early management hunts; archer concerns about firearm hunting opportunity on public lands during the archery season, those parcels were included to support the management hunt by preventing elk from becoming unavailable to firearm hunters when those elk move to those public land parcels. Grizzly bears are getting more attention during hunting season than they did when they were at the day care center in Valier; at least they are getting publicity about how many bears are out there and how tough it is to interact with them. Received a call from a gentleman who stated they are testing a new snare in the Blackfeet Reservation; having good luck with it. Attended a public meeting on the proposed purchase of the Woolery property (640 acres) which sits in the middle of the Lost River Ranch; conversations on the price; will be a good purchase if approved; a person commented the Department needs to have a management team on the Wildlife Management Area (WMA); people feel only wildlife is being managed, not looking at the WMA resource itself. Attended the Upper Sun River Management Team meeting; conversations on shoulder seasons, mule deer study and the mountain lion management proposal. Received a call from a Bears Paw rancher; wants to move the money from the proposed Woolery purchase to a place south; explained it could not be done; turned the information over to the Department; would open up several thousand acres for access. A meeting was held with the Fort Belknap Tribe, FWP staff and county officials; discussed the need for better communication, understanding, and trying to resolve situations before they get out of hand. People are asking questions and wondering if the public would be able to comment and on the Blackfeet Tribe putting free roaming bison on Forest Service (FS) land.

Chairman Vermillion stated the Yellowstone River closure caused a huge economical impact on tourism revenue; people have a good understanding of the reasons for the closure; recommends a synopsis report be established this fall; a lot of good will would be generated if a report done. People are complaining there are too many people on the Rivers; river use has changed; fishermen/women and recreational users need to learn to get along while on the river. Bears are a big issue south of Livingston; a couple mauulings have taken place within the region. Received a couple calls regarding the WMA east of Billings; spoke with Region 5 Supervisor, Barb Beck (will explain to him the Department has done everything to neutralize the situation. Spoke with a gentleman from hunting district (HD) 580; even though there is an aggressive shoulder season, access is an issue and a fee of \$1,000 per day is being charged; if the landowners are not inclined to cooperate with the Department, there is not much that can be done with the elk issue on their property. Good conversations with a gentleman from Hysham at the open house; constructive suggestions on elk districts in the area.

Chairman Vermillion stated the Commission has drafted a letter to the FS supporting the Mill Creek Land and River Acquisition Project in Custer-Gallatin National Forest; Commissioners Wolfe, Tourlotte and himself drafted a letter to the Bureau of Land Management (BLM) encouraging them to include Backcountry Conservation Areas within the range of alternative in the forthcoming BLM Lewistown Draft Resource Management Plan. (see the October 13, 2016 Commission folder for copies of the letters).

##### **5. Director's Report**

Director Hagener reported the Department did a new appraisal on the Woolery property addition; value has dropped in this area for various reasons; a yellow book appraisal was done, hoping to use Pittman-Robertson funds; 38 public comments were received; 28 in support, 9 in opposition, and 1 neutral; there are two range specialists on the ground at the WMA. At the management team meeting held last week, the Regional Supervisors reported the shoulder seasons have been successful in dispersing elk and very few game damage issues; archers have seen more elk on public land than usual. One individual in HD 217, advertised to elk hunt on his property for a fee; has done this in past years; smaller landowner; several landowners in this area have opened their property this year. Working diligently on moving the Yellowstone Grizzly Bear delisting forward; a lot of misunderstanding; four mauulings in Montana this year; need to be bear aware; biggest issue is in the Northern Continental Divide Ecosystem (NCDE). The Blackfeet Tribe did not talk with the Department nor the FS regarding the free roaming bison proclamation; conversations need to happen before things can move forward; if the bison are considered "wildlife" the Commission will have the final say where they will be placed (Commissioners and Director Hagener had a lengthy discussion on this issue). All non-resident licenses are sold out; first time since 2008. Environmental Quality Council (EQC) approved 10 out of 12 of the Departments pre-drafting legislative proposals. Department is in the process of looking at future land opportunities in the Bears Paw area; will likely bring a couple key properties to the Commission in the near future; the Department is restricted by the legislature. The Department has received several petitions for no-wake zones; will be brought to the Commission at the November meeting. The Department is conversing with the Fort Belknap Tribe to try and resolve several issues; complicated situation. Need a Commissioner to fill former Commissioner Kerstein's position on the TIP-MONT Board until his replacement is made; next TIP-MONT meeting is November 16.

Chairman Vermillion stated he would attend the November 16 TIP-MONT meeting; Vice-Chairman Stuker will be a back-up if needed.



**6. 2017 Commission Meeting Calendar – Informational**

Chairman Vermillion read through the proposed 2017 meeting calendar; suggest not approving anything until after the November election.

Director Hagener stated the calendar is just a draft; it has been suggested within the Department to consider having meetings every other month, starting February 2017.

Commissioner Wolfe stated he is comfortable using the video conferencing for meetings when there is not a lot of public input; would cut down on expenses.

Vice-Chairman Stuker stated he agrees with Commissioner Wolfe; if the meetings are held via video, would like the meeting to begin later in the morning. Would like the February meeting moved a day later or the following week (10, 13-14).

Chairman Vermillion stated February 13 or 14 would work for him; would like to see a calendar agenda item breakdown; the January 2018 meeting in an important meeting for public feedback for the hunting season proposal.

**7. Avista Cooperative Management Area Biennial Rule (R1) – Proposed**

Ken McDonald, Wildlife Administrator, explained this proposal would renew the current Cooperative Management Area (CMA) Rule on Avista Corporation property in Sanders County and is a recreational area heavily used by the public along the Clark Fork River near Thompson Falls. The CMA rules would provide for managed public access for camping, fishing, hunting, boating and other outdoor activities during parts of the year that fall outside of the general fall hunting season. Several other Avista properties would still remain in the Block Management (BM) program for hunting. The rules are not new to the Avista Corporation property and have been successful for the past two years. If approved, public comment will be solicited until Friday, November 11 at 5 p.m. Without adoption of this proposal, FWP would not be able to operate under a special circumstances agreement and would only provide enforcement during the block management season. Enforcement efforts could be hampered if violators cannot be prosecuted outside of hunting season, potentially resulting in decreased access on Avista lands in Sanders County.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Commission adopt for public comment, the proposed Avista Cooperative Management Area Biennial Rule.*

Chairman Vermillion asked if this will be available during the hunting season.

McDonald stated access is already being allowed; some land is under BM.

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

**8. Canyon Creek WMA Specimen Creek Donation (R3) – Final**

Ken McDonald, Wildlife Administrator, explained FWP is seeking approval to acquire the Specimen Creek Property through donation. The addition would add approximately 729 acres of important wildlife habitat to the northern border of the Canyon Creek WMA. Its primary goal is to expand wildlife habitat and further protect a stream corridor containing native westslope cutthroat trout, while maintaining public access to public lands in a strategic location and provides hunting opportunity for mule deer and elk, winter range for mule deer and moose, and spring, summer and fall range for all three of these big game species; carnivores, grizzly and black bear, wolves, Canada lynx, wolverine, bobcat, etc., utilize the area, and falls within the continental divide wildlife movement corridor between the NCDE and areas further south. FWP has worked with the Rocky Mountain Elk Foundation (RMEF) on this proposed project. FWP has completed a 30-day scoping and 30-day public comment period on the draft environmental assessment (EA); a public hearing was held on September 1; four neighboring landowners attended the public hearing and were in support of the proposal, and offered suggestions to consider; eight comments were received; seven comments in support and one commented without giving a clear opinion for or against the proposal. In coordination with RMEF's efforts to assemble funding for this project, additional opportunity for public participation occurred last fall, when the Montana Fish and Wildlife Conservation Trust issued a request for public comment, and public participation was also afforded in early summer 2016 as part of the application process for funding through the Lewis and Clark County Open Lands Program. FWP prepared an EA to evaluate the proposed action and alternatives; the EA considered accepting and not accepting the addition; a Decision Notice (DN) was rendered recommending acceptance of this addition to the Canyon Creek WMA. RMEF is donating the land to FWP; no cost to the Department for the acquisition.

*Action: Commissioner Wolfe moved and Commissioner Tourtlotte seconded the motion that the Commission approve the Specimen Creek donated addition to Canyon Creek WMA.*

Chairman Vermillion asked when does the Department expect to close on the donation.

McDonald stated hopefully by the end of the year; will go before the Land Board next week.

Chairman Vermillion thanked RMEF for their financial support; would not have been able to obtain otherwise.

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

**9. Trumbull Creek Conservation Easement (R1) – Final**

Ken McDonald, Wildlife Administrator, explained FWP and The Trust for Public Land (TPL) negotiated two conservation easements (CE) with F.H. Stoltze Land & Lumber Co. – Haskill Basin (3,020 acres) which closed in February 2016 and Trumbull Creek (7,150 acres); the Commission endorsed the Trumbull Creek project in May 2015. The appraised value of the CE is approximately \$12.7 M and would be paid with \$6.5 M from the Forest Legacy Program, \$2 M from the Habitat Conservation Plan Land Acquisition Program (HCP), \$1 M in private foundation grants to TPL, and \$3.2 M in donated value by the landowner. The property provides winter range for mule deer, white-tailed deer and moose; is rated Class 1 for terrestrial species richness and provides important habitat for a variety of Tier I species and includes 1.5 miles of South Canyon Creek which supports a population of genetically pure westslope cutthroat trout. The property receives substantial levels of public use for year-round outdoor activities as well as access to FS lands in the North Fork. Stoltze's willingness to sell a CE offers a unique opportunity to conserve habitat and sustain high levels of public recreation. FWP held public scoping meetings in 2014 for both the Haskill Basin and Trumbull Creek projects. An EA was released for public comment from October 26 to November 22, 2015 and included a public hearing in Whitefish on November 9; 56 public comments were received; 29 comments in support, and none opposed; the remaining 27 comments, along with 15 people who expressed support, identified questions, issues or concerns addressed in the DN; most comments received were regarding the failure of the EA to acknowledge the off-road trail network that currently exists on the property, and the level of public use that it receives by a variety of recreational users; the Stoltze Open Lands Policy has covered this property for the last 20-plus years clearly states that construction of trails on their property is not allowed; Stoltze will retain the exclusive right to manage and limit public use on the existing single-track, off-road trails and any off-road trails proposed or created in the future; FWP will clarify the language in the management plan to make it clear that motorized and non-motorized, mechanized use is allowed only on the existing road network, which encompasses more than 25 miles of road on both properties, and which links to additional miles on the adjoining public road networks.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Commission approve the purchase of the Trumbull Creek conservation easement from F.H. Stoltze Land & Lumber Company.*

Commissioner Wolfe and McDonald discussed the Habitat Conservation Plan Land Acquisition Program.

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

**10. Swift Lazy Conservation Easement (R1) – Endorsement**

Ken McDonald, Wildlife Administrator, explained FWP is working with the TPL to negotiate a conservation outcome on approximately 15,300 acres of commercial timberland owned by Weyerhaeuser within the Swift and Lazy Creek watersheds north of Whitefish Lake. The project would involve FWP holding a CE on all or most of the property, depending on final negotiations and funding sources. The property has been viewed as one of the top conservation priorities in Region 1 and provides habitat and supports hunting opportunities for deer, elk, moose, bear, lion, wolf, and forest grouse, as well as providing important habitat for 42 species of greatest conservation need. The project would be funded primarily through federal grants from the FS, Fish and Wildlife Service (FWS), and Bonneville Power Administration (BPA), along with private funding through TPL, and may include funding through Habitat Montana; these corporate lands have a long history of public access that would be permanently secured through this project. No public outreach has been solicited; the potential project has been reported in the local newspaper, and FWP has received letters of support for our federal grant applications from the entire Montana congressional delegation, Governor Bullock, all federal agency partners, the City of Whitefish, and local and statewide conservation groups. Several viable alternatives are being considered for conserving this property that FWP would like to discuss with Weyerhaeuser; all of which would involve FWP holding an interest in most, or possibly all of the property.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission endorse FWP's proposal to negotiate and analyze conservation terms, working toward securing the Swift/Lazy Creek conservation easement.*

Commissioner Wolfe and McDonald discussed funding sources for the proposed project.

Chairman Vermillion asked for public comment.

Nick Gevok, Montana Wildlife Federation (MWF), supports project; ensures public access.

*Action on Motion: Motion passed.*

**11. Millage Conservation Easement (R3) – Endorsement**

Ken McDonald, Wildlife Administrator, explained the proposed Millage CE is approximately 400 acres of private land in wintering mule deer habitat along the foothills of the Bridger Mountains north of Bozeman, MT; it is adjacent to the 881 acre Maher CE and FS lands. The property has been in the family for several generations and has historically allowed generous hunter access. If sold, subdivision and



development is extremely high, which would directly impact winter habitat effectiveness; the landowners are supportive of retaining the conservation values of this property. No public comment has been solicited; upon endorsement, appropriate analysis, public review processes, and negotiations will be conducted. The CE would protect and maintain high priority wildlife habitat and public access.

**Action:** *Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion that the Commission endorse this conservation easement project, allowing FWP to initiate negotiations and to conduct analysis and associated public review.*

Chairman Vermillion asked for public comment.

Nick Gevok, MWF, supports project.

Chairman Vermillion stated this area is right for development; takes a special family to forego the economic gains; great project.

**Action on Motion:** *Motion passed.*

## **12. Coal Creek Conservation Easement (R7) – Endorsement**

Ken McDonald, Wildlife Administrator, explained FWP proposes to pursue a CE on 10,080 acres of deeded land in Prairie and Custer Counties; the land also comprises 4,480 acres of BLM and 960 acres Department of Natural Resources and Conservation (DNRC) lands. This is a unique, probably one-time opportunity to secure an interest in this property; a change in ownership would result in the loss of FWP's ability to positively impact the habitat on this property and a loss of much needed access for sportspersons and recreationists. Purchase of this CE would provide protection, enhancement, and public access to a unique combination of Eastern Montana habitats. The property is adjacent to the 13,851-acre Fluss Ranch CE and a 12,960 acre block of public lands to the south; in total, 23,931 acres would be under CE and 54,400 acres would be open to public access. The 2,700 acres riparian zone consists of a large, uninterrupted silver sagebrush bottom that traverses the property for roughly 5.5 linear miles; numerous natural water seeps and springs dot the landscape in the hills and draws leading into Coal Creek which support permanent wetlands and large mesic drainages dominated by green ash, cottonwood, and juniper overstories, providing exceptional biological diversity in otherwise xeric eastern Montana; the property also contains 4,000 acres of shrub grasslands, 2,500 woodlands and 4,200 of native grasslands; the previous owner did convert nearly 1,900 acres for wheat production, but the current owner has restored 1,550 acres back to permanent cover. Hunting opportunities include deer, antelope, elk, and upland game birds; is within core bighorn sheep range, sage grouse general range, and provides year round and important winter range for mule deer. No public comment has been solicited; upon endorsement, FWP would conduct appropriate analysis, public review processes, and negotiations.

**Action:** *Commissioner Tourtlotte moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission endorse the pursuit of the Coal Creek Conservation Easement.*

Commissioner Wolfe asked what the funding source will be for this project.

McDonald stated the project will primarily be funded by Habitat Montana funds; Pittman-Robertson funds could be an option.

Director Hagener and John Ensign, Region 7 Wildlife Manager, discussed the opportunity for permits in this area.

Chairman Vermillion asked for public comment.

John Bradley, MWF, supports proposal; great project for the public to enjoy.

Roy Clifton, Rosebud-Treasure Wildlife Association (RTWA), supports proposal 100%.

**Action on Motion:** *Motion passed.*

## **13. Grassland Conservation Leases – Endorsement**

Ken McDonald, Wildlife Administrator, explained FWP proposes to offer 30-year conservation leases to willing, eligible landowners/ranches who agree to protect native grassland, sagebrush, and wetlands; in exchange for a one-time payment of \$15/acre, willing landowners would agree not to convert enrolled habitats to cropland agriculture, drain natural wetlands, or apply herbicides that are detrimental to native plants; other traditional land uses, such as grazing, would be encouraged. Landowners would agree to offer negotiated public access for game bird hunting, and depending on funding source, recreational viewing. Enrollment Options and Targets: Prairie Pothole priority landscapes (grant expires April 30, 2017) - Target is to enroll ~30,000 acres of privately-owned priority habitat in the Prairie Pothole region of Montana; Sage-grouse Initiative lands (grant expires September 30, 2018, 1 year extension possible) - Target is to enroll ~ 45,000 acres of privately-owned lands previously or currently enrolled in Natural Resource Conservation Service (NRCS) Sage-grouse Initiative grazing conservation practices. Funding for leases would come from the National Fish and Wildlife Foundation (NFWF) - \$180,000, NRCS Voluntary Public Access and Habitat Incentive Program - \$706,787, Upland Game Bird Enhancement Program (UGBEP) - \$200,000 (no more than \$100,000/project), and Migratory Bird Wetland Program - \$100,000; current funding would allow FWP to offer leases on approximately 75,000 acres through 2019. The prairies and shrub-steppe habitats of Montana provide critical habitat for many declining grassland birds, including Sprague's pipit and greater sage-grouse; the Prairie Pothole Region of Montana supports the highest densities of nesting northern pintails in the nation; however, Montana continues to lose

native range land habitat and these losses have led to recent Endangered Species Act (ESA) listing petitions. FWP offered a similar opportunity in 2005-2007 called Sagebrush Leases and landowners enrolled 200,000 acres in 30-year agreements; FWS considered the 200,000 acres as protected from cropland conversion in their recent decision not to list the greater sage-grouse as threatened under the ESA; additional acres would help keep other prairie species from being federally listed. Upon endorsement, public comment would run through 5 p.m. Monday, November 14, 2016. The Upland Game Bird Council and Wetland Protection Advisory Council have favorably reviewed the conservation lease proposal.

*Action: Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion that the Fish and Wildlife Commission endorse offering 30-year grassland conservation leases as presented by FWP.*

Commissioners and McDonald discussed logistics, one-time payment price and other possible options for grassland leases.

Chairman Vermillion asked for public comment.

Nick Gevok, MWF, good program; supports endorsement.

*Action on Motion: Motion passed.*

#### **14. Brucellosis Proposed 2017 Annual Work Plan – Final**

Quentin Kujala, Wildlife Management Section Chief, explained in January 2013, the Commission endorsed elk management recommendations from a citizen working group for use in areas with brucellosis the Designated Surveillance Area (DSA) as described by the Montana Department of Livestock (DOL); the Commission recognized the need for annual work plans based upon these recommendations. The annual work plans describe specific management actions available for implementation. The proposed 2017 annual work plan represents the fifth iteration of annual plans and builds upon the 2013 - 2016 plans, and experience gained through the implementation plans. The proposed 2017 plan restates the 2016 plan to include hazing, limited fencing, limited lethal removal of elk, habitat modifications, and other efforts to adjust elk distribution away from cattle at small scales, to mitigate the risk of brucellosis transmission from elk to cattle. The plan includes the potential for local work groups to propose modifications or additions to the 2017 plan to the Commission at a later date. The final proposed work plan proposed includes new additional language that identifies areas in Montana adjacent to other states' DSA, for possible implementation of risk mitigation tools approved by the Commission; these tools would be limited to options the Commission approves in their final adopted work plan; hazing or lethal removal of elk to redistribute exposed elk away from other elk was removed and *is not* part of the final proposal. Public comment ran from the August 11 through 5 p.m. September 12; nine comments were received; comments included limited support for the 2017 plan with concern for any expansion of available tools, a focus on habitat, and advocacy for additional tools to keep exposed elk away from other elk that are not known to be exposed.

*Action: Vice-Chairman Stuker moved and Commissioner Wolfe seconded the motion that the Fish and Wildlife Commission adopt as final the proposed 2017 annual work plan for elk management in areas with brucellosis as presented by FWP.*

Commissioner Tourtlotte and Kujala discussed tools available for the area outside Montana's DSA and adjacent to Wyoming's DSA.

Vice-Chairman Stuker, Commissioner Tourtlotte and Commissioner Wolfe discussed their concerns and conversed with Kujala about the plan.

Chairman Vermillion asked for public comment.

Nick Gevok, MWF, final plan is a big improvement from the proposed plan; commends Commissioners; shares Commissioners concerns.

Chairman Vermillion stated the Department has proven they can be responsible to take a moderate approach in good faith.

Chairman Vermillion and Kujala discussed what the Department's actions are on Chronic Wasting Disease (CWD).

Chairman Vermillion and Kujala discussed the upcoming conversation at November's meeting on Bighorn Sheep transfers.

*Action on Motion: Motion passed.*

Director Hagener introduced Eileen Ryce as the new Fisheries Division Administrator.

#### **15. Yellowstone River Update – Informational**

Eileen Ryce, Fisheries Administrator, gave a brief update and the Department's future plan on the Yellowstone River, and other possible sites where the parasite may be.

Chairman Vermillion asked the Department to be cognitive of how certain "words" may be perceived by the public, especially outside of Montana.

Chairman Vermillion and Ryce discussed what happens with the parasite and how many samples are needed to determine if the parasite is present in the water.

Chairman Vermillion asked the Department to come up with a Commission rule or disease guidance document for the public.

Commissioner Wolfe and Ryce discussed hosts and stages of the parasite.

**16. Round Up and Three Stall Fishing Access Site Lease Agreements (R2) – Final**

Eileen Ryce, Fisheries Administrator, explained in 2005 it was discovered during the renewal process the Round Up and Three Stall fishing access sites (FAS) were being managed on private land by FWP without a formal management agreement in place. In 2015, the Commission endorsed to negotiate lease agreements with the landowner at these FASs. Region 2 has been and continues to manage these sites as part of the Regional FAS program already; the agreement formalizes the management arrangement and defines roles and responsibilities; approving the agreements would not require additional allocation of resources. An EA was published soliciting public comment from July 18 through August 15, 2016; two comments in support were received.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission approve authority for the Round Up and Three Stall fishing access site lease agreements to be signed by FWP.*

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

**17. Harrison Lake Fishing Access Site Property Donation (R3) – Final**

Eileen Ryce, Fisheries Administrator, explained the Willow Creek Project also known as the Harrison Lake FAS is owned and administered by the DNRC through its State Water Projects Bureau; the Willow Creek Water Users Association (WCWUA) operates the Project under a water marketing contract with DNRC. At the request of the WCWUA, Senate Bill 221 was introduced and passed during the 2015 Legislative Session, requiring DNRC to attempt to dispose of the Willow Creek Project lands. In order to ensure continued public access to the lake, DNRC is proposing to transfer through donation, 193 acres of land to FWP. Combined with FWP's existing ownership of 37-acres, this transaction would bring FWP's land ownership to a total of 230-acres. DNRC is now prepared to transfer the 193-acres to FWP and the balance of the DNRC property to the WCWUA. FWP has been working with DNRC staff and the adjacent private landowners to correct boundary line issues prior to conveyance; FWP is concurrently working with adjacent landowners towards an agreement to exchange easements on a short section of the access road. An EA was prepared by DNRC with the public comment period extending from February 8 through March 8, 2016; public comments were evaluated and a DN was released by DNRC on May 16, 2016. The EA evaluated three alternatives: FWP can either accept or refuse the donation of property by DNRC; if refused, FWP would not have guaranteed public access to the reservoir; if accepted, access will be guaranteed in perpetuity, and at virtually all water elevations, since the donated land extends from the FAS out toward the middle of the reservoir. The Department has received calls from the WCWUA stating they are supportive of the transfer and are happy with the recreational access; stated they would like additional language that addresses management access on the lake; the Department will work with the users group to develop a management agreement for recreation and access.

Chairman Vermillion stated he spoke with the WCWUA attorney and the group is strongly supportive of the transfer; have concerns about access.

Chairman Vermillion and Rebecca Dockter, FWP Chief Legal Counsel, discussed if the Department on the Commissioner's behalf, work on an access management agreement with the landowners and water users, Dockter stated the agreement would not have to be brought back to the Commission for approval.

Chairman Vermillion stated to include "direct the Department to negotiate an agreement with the landowners and water users" in the suggested motion.

*Action: Commissioner Tourtlotte moved and Commissioner Wolfe seconded the motion that the Fish and Wildlife Commission authorize FWP to accept the 193-acre donation of property from DNRC at the Harrison Lake FAS, with further direction to negotiate an access management agreement with the landowners and water users.*

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

**18. Pine Grove Pond Land Donation (R1) – Endorsement**

Eileen Ryce, Fisheries Administrator, explained FWP brought this site to the Commission in May of 2009 when the landowner, Robin Street offered to donate the Department a 12.789-acre parcel of land for a family fishing pond. The site has been fully developed and is one of the heavily used FASs in Region 1, receiving in excess of 30,000 angler days per year. Two years ago Mr. Street donated another small parcel of his land in order to allow FWP to expand the existing parking area. Mr. Street is now in the process of selling the 157-acres of land adjacent to the FAS and anticipates the property will be subdivided for home sites. To prevent potential encroachment on



the FAS from the subdivision development, Mr. Street is proposing to donate approximately eight additional acres of property to establish a buffer between any future subdivision development and the FAS. FWP recommends that the Commission endorse efforts by the Department to pursue the donation of land by Mr. Street. Upon endorsement, FWP will prepare an EA for public review.

**Action:** *Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission authorize the Department to pursue acquisition of the Pine Grove Pond land donation by Mr. Street.*

Vice-Chairman Stuker thanked Mr. Street for his generous contribution.

Chairman Vermillion and Mark Deleray, Region 1 Fisheries Manager, discussed why the Department is not pursuing the other acres of land and Mr. Street's concerns and protection for the FAS.

Chairman Vermillion asked for public comment.

**Action on Motion:** *Motion passed.*

#### 19. Renew Biennial Fishing Access Site Rule – Proposed

Eileen Ryce, Fisheries Administrator, explained the Commission adopted the current FAS Biennial Rule in March 2015; the proposed rule would replace the current rule. The proposed rule contains changes to the camping fees for both fishing license holders and non-license holders. Upon approval, FWP will solicit for public comment. FWP has not increased camping fees since 2002 and feels increases at this time are appropriate; the \$18 fee for non-license holders will be identical to the fee charged at state parks' campsites with a similar level of amenities; the \$12 lower rate for license-holders is justified because a portion of Montana vehicle registration fees goes to fund the FAS program. The proposed changes are as follows:

##### FEE CATEGORY:

###### Camping

Montana fishing license holders  
Montana fishing license holders  
(Montana Residents: disabled or 62 years or older)  
Non-license holders

##### FEE AMOUNT:

~~\$7~~ \$12 per night  
~~\$3.50~~ \$6 per night  
~~\$12~~ \$18 per night

**Action:** *Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion that the Fish and Wildlife Commission propose a Fishing Access Site Biennial Rule and seek public comment.*

Chairman Vermillion asked for public comment.

**Action on Motion:** *Motion passed.*

#### 20. Renew Biennial Commercial Use Permit Fee Rule – Proposed

Eileen Ryce, Fisheries Administrator, explained the Commission Commercial Use Permit Fee Rule sets the permit fees for commercial use occurring at FASs and WMAs. The Parks and Recreation Board Commercial Use Permit Fee Rule sets the permit fees for commercial use occurring at state parks; the Board amended its commercial use permit fee rule earlier this year by increasing the fees for photography and filming, special events, concessions and watercraft livery. Changes will make the fees the same for the film permits for the two rules; the Fisheries Division is experiencing considerable workload to process film permits with large crews. All other fees will remain unchanged, pending further discussions with FAS commercial users. Upon endorsement, FWP will conduct a public comment period. FWP recommends the Commission propose a commercial use permit biennial fee rule that increases the fees for large film crews. This will achieve consistency with the Parks rules, and will also reflect the reality of dealing with the impacts and logistics of large groups. The proposed changes are as follows:

##### Primary Type of Use:

Still Photography and Filming\*

##### Commercial Use Permit Fee

1 person photographer/videographer operating with the use of models, props, crew members, or clients: \$25 per day or \$50 per year;  
2 to 3 person crew: \$25 per day or \$50 per year;  
4 to 7 person crew: \$50 per day;  
8 to 20 person crew: ~~\$100~~ \$200 per day;  
~~21-35 person crew: \$200 per day;~~  
21 or more person crew: \$500 for first day, \$1,000 per additional day;  
~~36-50 person crew: \$300 per day;~~  
~~51 or more person crew: \$400 per day;~~

**Action:** *Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion that the Fish and Wildlife Commission propose a commercial use fee rule with changes to the Still Photography and Filming fees as recommended by the Department.*



Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

**21. 2017 Fishing Regulations – Final**

Eileen Ryce, Fisheries Administrator, explained Montana's fishing-regulation process is based on a four-year cycle. The first year of every cycle establishes fishing regulations that have undergone internal review by the Department including consideration of ideas, comments, and regulation suggestions from the public. The regulations are meant to remain in place four years during which time their effectiveness is evaluated with respect to fish management objectives as well as angler use and satisfaction. Recommendations to change these regulations in subsequent years are limited to specific eligibility criteria associated with the need to improve existing regulations for one or more of the following reasons: clarifications, enforcement, conservation, relevancy, or management plans. On August 11, 2016, 15 new fishing regulation proposals were approved for public comment by the Commission; public comment ran through September 12. During the comment period, 279 comments were received; 60% supported one or more of the proposed changes, 26% offered no opinion, and 14% expressed opposition. FWP recommends approval of 14 of the 15 proposals as they were initially presented and recommends withdrawing of one proposal affecting the Big Hole River; this proposal was intended to clarify regulations for each segment of the Big Hole River; after receiving concerns from the public, the Department would like more opportunity to discuss different options; the current regulation is sufficient to protect the fisheries and to optimize angling opportunities.

*Action: Commissioner Wolfe moved and Vice-Chairman Stuker seconded the motion that the Fish and Wildlife Commission adopt FWP's proposed fishing regulations including the changes recommended for the 2017 fishing season.*

Chairman Vermillion asked for public comment.

*Action on Motion: Motion passed.*

**22. Public Comment – For Issues Not On This Agenda**

*Montana Bowhunters Association (MBA) Proposed Archery Technology Policy - Endorsement for Public Comment*

Ken McDonald, Wildlife Administrator stated during the May 2016 Commission work session, the MBA presented a historical perspective on archery season intent, justification of current regulations, and current equipment discussions and challenges within the bowhunting community. The MBA designed a policy to better focus equipment discussions and aid the Department and Commission in their deliberations on archery equipment proposals.

Joel Selk, MBA, explained in recent years, there has been increasing pressure to consider the acceptance of electronic devices on archery equipment and advancements such as crossbows. MBA is requesting the Commissions endorsement for public comment, the proposed archery policy.

Chairman Vermillion stated every legislative session there are bills creating a lot of discussion on technology; encourages the public to comment on the proposed policy; will be interesting to see where bow hunters want to see their sport go and how they want technology to interact with the Department and Commission; will be helpful for the legislature, Department and Commission.

*Action: Chairman Vermillion moved and Vice-Chairman Stuker seconded the motion that the Commission endorse for public comment for the review of the Archery Equipment Evaluation Policy and consideration of the proposed policy and evaluation matrix for Commission adoption at the December meeting*

Chairman Vermillion asked if there is enough time for public comment

McDonald stated if endorsed, it becomes a Commission proposal, public comment will be solicited for a 30 days and brought back to the Commission in December.

Chairman Vermillion stated he is interested in what the public has to say; the Commission has agreed to put the policy out for public comment, with no preconceived ideas of whether the Commission will approve in December.

Chairman Vermillion asked for public comment.

Nick Gevok, MWF, very encouraged by this proposal; will look at the policy closely; multiple bills during the last legislative session.

Director Hagener stated he has had conversations with his counter parts across the nation, and this is not just a Montana issue; some states have separated seasons; important to be proactive; the Department is not keen on splitting existing seasons or making new seasons to accommodate different groups.

*Action on Motion: Motion passed.*

Chairman Vermillion asked if there was other public comment in Forsyth or in the Regions.

*Action: Vice-Chairman Stuker moved and Commissioner Tourtlotte seconded the motion to adjourn the meeting. Motion Passed.*

*The meeting adjourned at 11:56 a.m.*



Dan Vermillion, Chairman



M. Jeff Hagener, Director